



**SENATE AMENDMENT 123,
TO 1995 ASSEMBLY BILL 150**

June 28, 1995 – Offered by Senators ELLIS, LEEAN, RUDE, A. LASEE, DRZEWIECKI, ZIEN, PETAK, BUETTNER, SCHULTZ, FITZGERALD, ROSENZWEIG, DARLING, PANZER and FARROW.

1 At the locations indicated, amend the engrossed bill as follows:

2 **1. Page 175, line 1:** delete “, except as it affects 20.395 of the statutes,”, as
inserted by senate amendment 116.

3 **2. Page 249, line 1:** on page 7, line 6, of the material inserted by senate
amendment 117, decrease the dollar amount for fiscal year 1995–96 by \$1,200,000
and decrease the dollar amount for fiscal year 1996–97 by \$1,200,000 to decrease
funding for the purposes for which the appropriation is made.

4 **3. Page 290, line 2:** increase the dollar amount for fiscal year 1996–97 by
\$614,400 to increase funding for the purpose for which the appropriation is made.

5 **4. Page 413, line 7:** delete the material inserted by senate amendment 116.

6 **5. Page 557, line 15:** after that line, delete the material inserted by senate
amendment 117 and substitute:

7 **“SECTION 1401mbe.** 25.29 (1) (c) of the statutes is amended to read:

8 25.29 (1) (c) ~~For fiscal year 1992–93, and for each fiscal year thereafter, an An~~
9 amount equal to the estimated motorboat gas tax payment multiplied by 1.4. The

1 estimated motorboat gas tax payment is calculated by multiplying the number of
2 motorboats registered under s. 30.52 on January 1 of the previous fiscal year by 50
3 gallons and multiplying that product by the sum of the excise tax imposed under s.
4 78.01 (1) and the oil company franchise fee under ch. 140 calculated on a
5 cents-per-gallon basis by the department of revenue under s. 140.03 (7) that are
6 imposed on April 1 of the previous fiscal year.

7 **SECTION 1401mde.** 25.29 (1) (d) 1. of the statutes is amended to read:

8 25.29 (1) (d) 1. An amount calculated by multiplying the number of
9 snowmobiles registered under s. 350.12 on the last day of February of the previous
10 fiscal year by 50 gallons and multiplying that product by the sum of the excise tax
11 imposed under s. 78.01 (1) and the oil company franchise fee under ch. 140 calculated
12 on a cents-per-gallon basis by the department of revenue under s. 140.03 (7) that
13 are imposed on the last day of February of the previous fiscal year.

14 **SECTION 1401mfd.** 25.29 (1) (dm) of the statutes is amended to read:

15 25.29 (1) (dm) ~~For fiscal year 1991-92 and for each fiscal year thereafter, an~~
16 An amount equal to the estimated all-terrain vehicle gas tax payment. The
17 estimated all-terrain vehicle gas tax payment is calculated by multiplying the sum
18 of the number of all-terrain vehicles registered for public use under s. 23.33 (2) (c)
19 and the number of reflectorized plates issued under s. 23.33 (2) (dm) on the last day
20 of February of the previous fiscal year by 25 gallons and multiplying that product by
21 the sum of the excise tax imposed under s. 78.01 (1) and the oil company franchise
22 fee under ch. 140 calculated on a cents-per-gallon basis by the department of
23 revenue under s. 140.03 (7) that are imposed on the last day of February of the
24 previous fiscal year.”.

1 **6. Page 559, line 8:** after that line, on page 19, line 19, of the material inserted
by senate amendment 117, delete “**407m**” and substitute “**1407m**”.

2 **7. Page 1113, line 13:** on page 20, line 14, of the material inserted by senate
amendment 117, delete “**3362mb.**” and substitute “**3362mb.**”.

3 **8. Page 1222, line 1:** before the material inserted by senate amendment 117,
insert:

4 “**SECTION 3522gb.** 84.59 (2) of the statutes is amended to read:

5 84.59 (2) The department may, under s. 18.56 (5) and (9) (j), deposit in a
6 separate and distinct fund outside the state treasury, in an account maintained by
7 a trustee, revenues derived under s. 341.25 and ch. 140. The revenues deposited are
8 the trustee’s revenues in accordance with the agreement between this state and the
9 trustee or in accordance with the resolution pledging the revenues to the repayment
10 of revenue obligations issued under this section.”.

11 **9. Page 1225, line 7:** delete the material inserted by senate amendment 116.

12 **10. Page 1489, line 11:** after that line, on page 42, after line 17, of the material
inserted by senate amendment 117, insert:

13 “**140.025 Refunds.** Any person who is eligible for an exemption under s. 78.01,
14 or a refund under s. 78.75, because the person uses motor vehicle fuel to operate a
15 motor vehicle elsewhere than on the public highways and for the purpose of farming,
16 as defined in section 464 (e) 1 of the internal revenue code, is eligible for a refund
17 equal to the fee under this chapter payable by the supplier on the motor vehicle fuel
18 that the person purchases at retail for those purposes. Section 78.75 (1m) (a) 3. and
19 (b) to (f) and (2), as it applies to refunds under ch. 78, applies to refunds under this

1 section. The penalties under s. 78.73 (1) (d), as they apply to claims for refund under
2 s. 78.75, apply to claims for refunds under this section.”.

3 **11.** Page 1875, line 11: delete the material inserted by senate amendments
116 and 117, and substitute:

4 “**SECTION 5847eb.** 218.01 (2) (bd) 1g. of the statutes is amended to read:

5 218.01 (2) (bd) 1g. The manufacturer, distributor or importer shall send a
6 notice of discontinuation or cancellation by certified mail, and forward a copy of the
7 notice to the department, not less than 20 days before the effective date of
8 discontinuation or cancellation of the agreement, if the dealer or distributor fails to
9 conduct its customary sales and service operations during its customary business
10 hours for 7 consecutive business days unless the failure is caused by an act of God,
11 by work stoppage or delays due to strikes or labor disputes or other reason beyond
12 the dealer’s or distributor’s control or by an order of the department or the office of
13 ~~the commissioner of transportation~~ division of hearings and appeals.

14 **SECTION 5847gb.** 218.01 (2) (bd) 1g. of the statutes, as affected by 1995
15 Wisconsin Act (this act), is repealed and recreated to read:

16 218.01 (2) (bd) 1g. The manufacturer, distributor or importer shall send a
17 notice of discontinuation or cancellation by certified mail, and forward a copy of the
18 notice to the department of transportation, not less than 20 days before the effective
19 date of discontinuation or cancellation of the agreement, if the dealer or distributor
20 fails to conduct its customary sales and service operations during its customary
21 business hours for 7 consecutive business days unless the failure is caused by an act
22 of God, by work stoppage or delays due to strikes or labor disputes or other reason

1 beyond the dealer's or distributor's control or by an order of the department of
2 transportation or the division of hearings and appeals.

3 **SECTION 5847mb.** 218.01 (2) (bd) 1r. of the statutes is amended to read:

4 218.01 (2) (bd) 1r. The notice served upon a motor vehicle dealer under subs.

5 1. and 1g. is not effective unless it conspicuously displays the following statement:

6 NOTICE TO DEALER

7 YOU HAVE THE RIGHT TO: 1) MEDIATE IF YOU OPPOSE THE
8 PROPOSED TERMINATION OR NONRENEWAL OF YOUR FRANCHISE AND 2)
9 A HEARING BY THE OFFICE OF THE COMMISSIONER OF TRANSPORTATION
10 DIVISION OF HEARINGS AND APPEALS IF MEDIATION DOES NOT RESOLVE
11 THE DISPUTE. TO PRESERVE THESE RIGHTS, YOU MUST TAKE CERTAIN
12 STEPS ON OR BEFORE THE DATE THAT THE PROPOSED TERMINATION OR
13 NONRENEWAL TAKES EFFECT. FOR FURTHER INFORMATION, CONSULT
14 YOUR ATTORNEY OR CALL THE DEALER SECTION, WISCONSIN
15 DEPARTMENT OF TRANSPORTATION, AT (insert area code and telephone
16 number).”

17 **12.** Page 1882, line 3: after that line insert:

18 “**SECTION 5867mb.** 218.01 (2c) (c) of the statutes is amended to read:

19 218.01 (2c) (c) The ownership, operation or control of a dealership by a
20 manufacturer, importer or distributor, or subsidiary thereof, which does not meet the
21 conditions under par. (a) or (b), if the ~~office of the commissioner of transportation~~
22 division of hearings and appeals determines, after a hearing on the matter at the
23 request of any party, that there is no prospective independent dealer available to own
24 and operate the dealership in a manner consistent with the public interest and that

1 meets the reasonable standard and uniformly applied qualifications of the
2 manufacturer, importer or distributor.”.

3 **13.** Page 1884, line 1: before that line insert:

4 “**SECTION 5869m.** 218.01 (3) (a) 24. of the statutes is amended to read:

5 218.01 (3) (a) 24. Being a manufacturer, importer or distributor who fails to
6 comply with the procedures in sub. (3x) regarding a dealer’s request for approval of
7 a change of ownership or executive management, transfer of its dealership assets to
8 another person, adding another franchise at the same location as its existing
9 franchise, or relocation of a franchise or who fails to comply with an order of the office
10 of the commissioner of transportation division of hearings and appeals issued under
11 sub. (3x).”.

12 **14.** Page 1890, line 1: delete the material inserted by senate amendments 116
and 117, and substitute:

13 “**SECTION 5885gb.** 218.01 (3x) (b) 2. of the statutes is amended to read:

14 218.01 (3x) (b) 2. An affected grantor who does not approve of the proposed
15 action shall, within 30 days after receiving the dealer’s written notice of the proposed
16 action or within 30 days after receiving all the information specified in a written list
17 served on the dealer under subd. 1., whichever is later, file with the department and
18 serve upon the dealer a written statement of the reasons for its disapproval. The
19 reasons given for the disapproval or any explanation of those reasons by the
20 manufacturer, distributor or importer shall not subject the manufacturer,
21 distributor or importer to any civil liability unless the reasons given or explanations
22 made are malicious and published with the sole intent to cause harm to the dealer
23 or a transferee of the dealer. Failure to file and serve a statement within the

1 applicable period shall, notwithstanding the terms of any agreement, constitute
2 approval of the proposed action by the grantor. If an affected grantor files a written
3 statement within the applicable period, the dealer may not voluntarily undertake
4 the proposed action unless it receives an order permitting it to do so from the office
5 of the commissioner of transportation division of hearings and appeals under par. (c)
6 2.

7 **SECTION 5885mb.** 218.01 (3x) (b) 2. of the statutes, as affected by 1995
8 Wisconsin Act (this act), is repealed and recreated to read:

9 218.01 (3x) (b) 2. An affected grantor who does not approve of the proposed
10 action shall, within 30 days after receiving the dealer's written notice of the proposed
11 action or within 30 days after receiving all the information specified in a written list
12 served on the dealer under subd. 1., whichever is later, file with the department of
13 transportation and serve upon the dealer a written statement of the reasons for its
14 disapproval. The reasons given for the disapproval or any explanation of those
15 reasons by the manufacturer, distributor or importer shall not subject the
16 manufacturer, distributor or importer to any civil liability unless the reasons given
17 or explanations made are malicious and published with the sole intent to cause harm
18 to the dealer or a transferee of the dealer. Failure to file and serve a statement within
19 the applicable period shall, notwithstanding the terms of any agreement, constitute
20 approval of the proposed action by the grantor. If an affected grantor files a written
21 statement within the applicable period, the dealer may not voluntarily undertake
22 the proposed action unless it receives an order permitting it to do so from the division
23 of hearings and appeals under par. (c) 2.

24 **SECTION 5886db.** 218.01 (3x) (b) 3. of the statutes is amended to read:

1 218.01 (3x) (b) 3. A dealer who is served with a written statement by an affected
2 grantor under subd. 2 may file with the department and the ~~office of the~~
3 ~~commissioner of transportation~~ division of hearings and appeals and serve upon the
4 affected grantor a complaint for the determination of whether there is good cause for
5 permitting the proposed action to be undertaken. ~~The office of the commissioner of~~
6 ~~transportation~~ division of hearings and appeals shall promptly schedule a hearing
7 and decide the matter. The proposed action may not be undertaken pending the
8 determination of the matter.

9 **SECTION 5886gb.** 218.01 (3x) (b) 3. of the statutes, as affected by 1995
10 Wisconsin Act (this act), is repealed and recreated to read:

11 218.01 (3x) (b) 3. A dealer who is served with a written statement by an affected
12 grantor under subd. 2. may file with the department of transportation and the
13 division of hearings and appeals and serve upon the affected grantor a complaint for
14 the determination of whether there is good cause for permitting the proposed action
15 to be undertaken. The division of hearings and appeals shall promptly schedule a
16 hearing and decide the matter. The proposed action may not be undertaken pending
17 the determination of the matter.

18 **SECTION 5886jb.** 218.01 (3x) (c) 1. (intro.) of the statutes is amended to read:

19 218.01 (3x) (c) 1. (intro.) In determining if there is good cause for permitting
20 a proposed action to be undertaken, the ~~office of the commissioner of transportation~~
21 division of hearings and appeals may consider any relevant factor including:

22 **SECTION 5886mb.** 218.01 (3x) (c) 2. of the statutes is amended to read:

23 218.01 (3x) (c) 2. The decision of the ~~office of the commissioner of~~
24 ~~transportation~~ division of hearings and appeals shall be in writing and shall contain
25 findings of fact and a determination of whether there is good cause for permitting the

1 proposed action to be undertaken. The decision shall include an order that the dealer
2 be allowed or is not allowed to undertake the proposed action, as the case may be.
3 The order may require fulfillment of appropriate conditions before and after the
4 proposed action is undertaken.”.

5 **15.** Page 1895, line 19: after that line insert:

6 “**SECTION 5893gb.** 218.01 (7m) (a) of the statutes is amended to read:

7 218.01 (**7m**) (a) A licensee may not file a complaint or petition with the office
8 of the commissioner of transportation division of hearings and appeals or bring an
9 action under sub. (9) (a), based on an alleged violation of this section by any other
10 licensee or pursuant to sub. (3) (f) or (fm), (3c) or (3x), unless the licensee serves a
11 demand for mediation upon the other licensee before or contemporaneous with the
12 filing of the complaint or petition or the bringing of the action. A demand for
13 mediation shall be in writing and served upon the other licensee by certified mail at
14 an address designated for that licensee in the licensor’s records. The demand for
15 mediation shall contain a brief statement of the dispute and the relief sought by the
16 licensee filing the demand.

17 **SECTION 5893mb.** 218.01 (7m) (c) of the statutes is amended to read:

18 218.01 (**7m**) (c) The service of a demand for mediation under par. (a) shall stay
19 the time for the filing of any complaint or petition with the ~~office of the commissioner~~
20 ~~of transportation~~ division of hearings and appeals or for bringing an action under
21 sub. (9) (a), based on an alleged violation of this section by the other licensee or
22 pursuant to sub. (3) (f) or (fm), (3c) or (3x), until the representatives of both licensees
23 have met with a mutually selected mediator for the purpose of attempting to resolve
24 the dispute. If a complaint or petition is filed before the meeting, the ~~office of the~~

1 ~~commissioner of transportation~~ division of hearings and appeals or the court shall
2 enter an order suspending the proceeding or action until the meeting has occurred
3 and may, upon the written stipulation of all parties to the proceeding or action that
4 they wish to continue to mediate under this subsection, enter an order suspending
5 the proceeding or action for as long a period as the ~~commissioner of transportation~~
6 division of hearings and appeals or court considers to be appropriate. A suspension
7 order issued under this paragraph may be revoked upon motion of any party or upon
8 motion of the ~~office of the commissioner of transportation~~ division of hearings and
9 appeals or the court.”.

10 **16.** Page 2126, line 19: on page 49, after line 19, of the material inserted by
senate amendment 117, insert:

11 “**SECTION 6409zb.** 341.21 of the statutes is created to read:

12 **341.21 Registration and title transactions by dealers.** The department
13 may contract with a motor vehicle dealer for services relating to the processing or
14 distribution of original or renewal registrations under this chapter or certificates of
15 title under ch. 342. The department may not compensate a motor vehicle dealer for
16 services provided under this section. A contract with a motor vehicle dealer shall
17 contain the following provisions:

18 (1) The amount of fees, if any, that the motor vehicle dealer may charge a person
19 for services relating to the processing or distribution of an original or renewal
20 registration or a certificate of title.

21 (2) Within 7 business days after the completion of an application, the motor
22 vehicle dealer shall process the application and submit any required fees and other
23 documentation to the department.

1 **(3)** The motor vehicle dealer shall retain all records related to an application
2 for original or renewal registration or a certificate of title for at least 5 years.

3 **(4)** The department or its representative may, without any prior notice, conduct
4 random inspections and audits of the motor vehicle dealer.”.

5 **17.** [Page 2633, line 6](#): on page 79, lines 14 and 15, of the material inserted by
senate amendment 117, delete “calendar year 1997” and substitute “July 1, 1996”.

6 **18.** [Page 2727, line 16](#): delete the material inserted by senate amendment 116.

7 **19.** [Page 2736, line 21](#): delete “and 1g.”, as inserted by senate amendment 116.

8 **20.** [Page 2737, line 3](#): delete “2. and 3.”, as inserted by senate amendment 116.

9 **21.** [Page 2740, line 23](#): on line 23, and on lines 23 and 24, delete the material
inserted by senate amendments 116 and 117; and after “of” insert “sections 215.02
(title), 218.01 (2) (bd) 1g., 218.01 (3x) (b) 2. and 218.01 (3x) (b) 3.”.

10

(END)